

SENATE NO. 544

AN ACT RELATIVE TO ELECTRONIC WASTE AND RECYCLING

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 21M the following
2 chapter;
3 Chapter 21N.

4 Section 1. The following words shall have the meanings unless the following context clearly indicates
5 otherwise:

6 "Fund", the electronic waste recovery and recycling fund.

7 "Authorized collector", any of the following: (1) a political subdivision of the commonwealth that
8 collects covered electronic devices, (2) a person or entity that is required or authorized by
9 the commonwealth or a political subdivision to collect covered electronic devices under the terms of a
10 contract, license, permit or other written authorization, (3) a nonprofit organization that collects or
11 accepts covered electronic devices, (4) a manufacturer or agent of the manufacturer that collects,
12 consolidates and transports covered electronic devices for recycling from consumers, businesses,
13 institutions and other generators; and (5) any entity that collects, handles, consolidates and transports
14 covered electronic devices.

15 "Consumer", a purchaser or owner of a covered electronic device, to which also includes a business,
16 corporation, limited partnership, nonprofit organization or governmental entity; but shall not include
17 an entity involved in a wholesale transaction between a distributor and retailer or a manufacturer who
18 purchases specialty or medical electronic equipment that is a covered electronic device;

19 "Covered electronic device", a cathode ray tube, cathode ray tube device, flat panel screen or any other
20 similar video display device with a screen size that is greater than four inches in size measured
21 diagonally with an output surface that displays, or is capable of displaying, moving graphical images
22 or a visual representation of image sequences or pictures,
23 showing a number of quickly changing images on a screen in fast succession to create the illusion of
24 motion, including, if applicable, a device that is an integral part of the display, in that it cannot be
25 easily removed from the display by the consumer, that produces the moving image on the screen but
26 does not include any of the following:

27 (a) a video display device that is a part of a motor vehicle, as defined in chapter 90 of the general laws,
28 or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised
29 dealer, including replacement parts for use in a motor vehicle,

30 (b) a covered electronic device that is functionally or physically a part of a larger piece of equipment
31 designed and intended for use in an industrial, commercial, or medical setting, including diagnostic,
32 monitoring or control equipment,

33 (c) a video display device that is contained within a clothes washer, clothes dryer, refrigerator,
34 refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air
35 conditioner, dehumidifier, or air purifier.

36 "Covered electronic waste", a covered electronic device that is discarded or disposed.

37 "Covered electronic waste recycler", any of the following:

38 (1) A person who engages in the manual or mechanical separation of covered electronic
39 devices to recover components and commodities contained therein for the purpose of reuse or
40 recycling;

41 (2) A person who changes the physical or chemical composition of a covered electronic
42 device by deconstructing, size reduction, crushing, cutting, sawing, compacting, shredding or refining
43 for purposes of segregating components, for purposes of recovering or recycling those components,
44 and who arranges for the transport of those components to an end user;

45 (3) A manufacturer who meets any of the conditions established under this chapter for the
46 collection or recycling of covered electronic waste;

47 "Covered electronic waste recycling fee" the fee imposed under this chapter.

48 "Department", the department of environmental protection of the commonwealth.

49 "Distributor", a person who sells a covered electronic device to a retailer.

50 "Electronic waste recovery payment", an amount established and paid by the department pursuant to
51 this act.

52 "Electronic waste recycling payment", a payment made by the department to an authorized collector of
53 covered electronic waste under this chapter.

54 "Manufacturer",: (1) a person who manufactures a covered electronic device sold in the
55 commonwealth, or (2) a person who sells a covered electronic device in this commonwealth under a
56 person's brand name.

57 "Medical electronic equipment", includes radiotherapy equipment, cardiology equipment, dialysis
58 equipment, pulmonary ventilators, nuclear medicine equipment, laboratory equipment for in-vitro
59 diagnosis, analyzers and freezers.

60 "Retailer", a person who sells a covered electronic device in the commonwealth to a consumer but
61 who did not manufacture the device, and includes a manufacturer of a covered electronic device who
62 sells the covered electronic device directly to a consumer through any means, including transactions

63 conducted through sales outlets, catalogs or the internet or any other similar electronic means, but does
64 not include a sale that is a wholesale transaction with a distributor or retailer.

65 "Sell" or "sale" means any transfer for consideration of title or of the right to use, by lease or sales
66 contract, including transactions conducted through sales outlets, catalogs or the internet, or any other
67 similar electronic means, but does not include a wholesale transaction with a distributor or a retailer.

68 "Specialty electronic equipment", includes smoke detectors, heating regulators and thermostats.

69 SECTION 2. As used in this section, the following words and phrases shall have the following
70 meanings unless the context clearly indicates otherwise:

71 "Computer", a programmable electronic machine that performs high-speed mathematical or logical
72 operations or that assembles, stores, correlates or otherwise processes information.

73 "Electronic item containing an intact or broken cathode ray tube", an electronic item containing a
74 cathode ray tube includes a television, computer monitor or any other cathode ray tube monitor or
75 display device;

76 "Electronics", devices that utilize electrons and electric circuits, including household appliances,
77 televisions, recording and playing devices for music or video tapes, compact discs, and digital
78 technology.

79 SECTION 3. (a) On and after July 1, 2008, a covered electronic waste recycling fee shall be imposed
80 upon the first sale in the commonwealth of a covered electronic device to a consumer by a retailer.

81 (b) A retailer that sells a covered electronic device to a consumer shall collect a fee for each covered
82 electronic device sold by the retailer in the following amounts:

83 (1) six dollars for each covered electronic device with a screen size of less than 15 inches
84 measured diagonally;

85 (2) eight dollars for each covered electronic device with a screen size greater than or equal
86 to 15 inches but less than 35 inches measured diagonally;

87 (3) ten dollars for each covered electronic device with a screen size greater than or equal to
88 35 inches measured diagonally;

89 (c) The electronic waste recycling fee collected under this section shall be transmitted to the
90 department in a manner determined by the department. The covered electronic waste recycling fees
91 shall be deposited in The Electronic Waste Recovery and Recycling Fund.

92 (d) A retailer selling a covered electronic device may retain 3 percent of the covered electronic waste
93 recycling fee as reimbursement for any costs associated with the of the collection fee.

94 (e) On and after July 1, 2008, and at least once every two years thereafter, the department shall
95 review, at a public hearing, the covered electronic waste recycling fee and shall make any adjustments
96 to the fee to ensure that there are sufficient revenues in the account to fund the covered electronic
97 waste recycling program established under this chapter. The department shall base any adjustment of
98 the covered electronic waste recycling fee on both of the following factors:

99 (1) The sufficiency, and any surplus, of revenues in the account to fund the collection,
100 consolidation and recycling of 100 percent of the covered electronic waste that is projected to be
101 recycled.

102 (2) The sufficiency of revenues in the account for the department to administer, enforce and
103 promote the program established pursuant to this act, plus a prudent reserve not to exceed 5 percent of
104 the amount in the account.

105 SECTION 4. (a) On and after July 1, 2008, it shall be unlawful to sell a covered electronic device to a
106 consumer in this Commonwealth unless the department determines that the manufacturer of that
107 covered electronic device demonstrates compliance with this chapter.

108 (b) On and after January 1, 2008, a person shall not sell or offer for sale in this commonwealth a
109 covered electronic device unless the device is labeled with the name of the manufacturer or the
110 manufacturer's brand label so that it is readily visible.

111 (c) On or before July 1, 2008, and at least once annually thereafter as determined by the department,
112 each manufacturer of a covered electronic device shall:

113 (1) submit to the department a report that includes all of the following information;

114 (i) an estimate of the number of covered electronic devices sold by the
115 manufacturer during the previous year;

116 (ii) a baseline or set of baselines that show the total estimated amounts of
117 mercury, cadmium, lead, hexavalent chromium, PBDEs and PBBs used in
118 covered electronic devices manufactured by the manufacturer in that year
119 and the reduction in the use of those hazardous materials from the previous
120 year;

121 (iii) a baseline or set of baselines that show the total estimated amount of
122 recycled materials contained in covered electronic devices sold by the
123 manufacturer in that year and the increase in the use of those recyclable
124 materials from the previous year;

125 (iv) a baseline or a set of baselines that describe any efforts to design
126 covered electronic devices for recycling and goals and plans for further
127 increasing design for recycling.

128 (2) Make information available to consumers that describes where and how to return,
129 recycle and dispose of the covered electronic device and opportunities and locations for the collection
130 or return of the device through the use of a toll-free telephone number, Internet website, information

131 labeled on the device, information included in the packaging or information accompanying the sale of
132 a covered electronic device.

133 (d) Any information submitted to the department under (a) that is proprietary in nature or a trade
134 secret shall be subject to protection under all laws and regulations governing the information.

135 (e) On or before April 1, 2008, a manufacturer shall inform the retailer if a covered electronic device
136 sold by that manufacturer is subject to the covered electronic waste recycling fee established under this
137 chapter.

138 SECTION 5. (a) A political subdivision or other public agency may not adopt, implement or enforce
139 an ordinance, resolution, regulation or rule requiring a consumer, manufacturer or retailer to recycle
140 covered electronic devices or imposing a covered electronic waste recycling fee upon a manufacturer,
141 retailer or consumer unless expressly authorized under this chapter.

142 (b) Nothing in this section shall prohibit the adoption, implementation or enforcement of any local
143 ordinance, resolution, regulation or rule governing curbside or drop-off recycling programs operated
144 by or under a contract with a political subdivision or other public agency, including any action relating
145 to fees for these programs. Nothing in this section shall be construed to affect any contract, franchise,
146 permit, license or other arrangement regarding the collection or recycling of solid waste or household
147 hazardous waste.

148 (c) The following civil penalties may be imposed by the department:

149 (1) an amount not to exceed \$5,000 per offense for each sale of a covered electronic device
150 for which a covered electronic waste recycling fee has not been paid under this chapter.

151 (2) A civil penalty in an amount not to exceed \$25,000 against manufacturers for failure to
152 comply with this chapter, except as otherwise provided in subsection (a).

153 SECTION 6. (a) The department shall deposit all fees and fines collected under this chapter into the
154 fund. The funds in the account may be expended by the department for the following purposes:

155 (1) to make electronic waste recovery payments to an authorized collector of covered
156 electronic waste pursuant to under the chapter.

157 (2) to make electronic waste recycling payments to covered electronic waste recyclers of
158 covered electronic waste.

159 (3) to provide for costs of the department to administer this chapter.

160 (b) any interest earned upon funds in the fund shall be deposited in the fund for expenditure under this
161 chapter.

162 (c) Not more than 1percent of the funds annually deposited in the account shall be expended for the
163 purposes of establishing the public information program to educate the public in the hazards of
164 improper covered electronic device storage and disposal and on the opportunities to recycle covered
165 electronic devices.

166 (d) The department may not provide any payment for covered electronic devices unless the materials
167 will be handled in compliance with all statutes and regulations regarding the export of hazardous
168 waste. No payment may be made for covered electronic devices exported to any country where the
169 export or import of hazardous waste is prohibited.

170 (e) The department may not provide any payment for covered electronic waste unless the materials are
171 handled in compliance with all statutes and regulations regarding the export of hazardous wastes.

172 SECTION 7. Chapter 29 of the General Laws is hereby amended by adding the following new
173 section.

174 Section 29:2000. There shall be set up on the books of the commonwealth a separate fund known as
175 the Electronic Waste Recovery and Recycling Fund. There shall be credited to the fund all revenues

176 or other financing sources directed to the fund by appropriation, and the monies collected by retailers
177 under chapter 21N. Monies credited to the fund may be expended by the department of environmental
178 protection without further appropriation, for the administration of chapter 21N.